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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/425,436 10/22/99 CAPPADONA

R 66635

EXAMINER

022242 IM52/0703
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

BECKER, D
ART UNIT PAPER NUMBER

1761
DATE MAILED:

07/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/425,436

Applicant(s)

CAPPADONA ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 and 8-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-19 is/are allowed.
- 6) ☒ Claim(s) 2-6 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Continued Prosecution Application

1. The request filed on May 22, 2001 for Continued Examination (RCE) based on parent Application No. 09/425,436 is acceptable and an RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

X 4. Claim 2 recites the limitation "the whistle body" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer [Pat. No. 4,330,069] in view of Stephen et al [Pat. No. 4,966,125].

Bauer teaches a cooking device comprising a pressure cooker (column 5, line 58), a lid with a curved shape and rim (Figure 3, 1"), a knob assembly (Figure 3, 2"), an aperture which passes through the lid and knob assembly and contains a thermometer (Figure 3, 24), a temperature display (Figure 4, 23), a temperature sensor above the level of the rim (Figure 3, 22), and the lid acting as a movable member which supports the thermometer. Bauer does not teach removing the thermometer or the probe having a hollow tubular structure. Stephen et al teach a cooking device having a removable thermometer located in the handle of a lid (Figure 3, 56). It would have been obvious to one of ordinary skill in the art to incorporate the removable thermometer of Stephen et al into the invention of Bauer since both are directed to cooking devices with thermometers in their handles, since the thermometer of Bauer lacks any impediments to its being lifted out of the lid handle (Figure 3), and since Stephen et al teach that a removable thermometer can be used to measure the temperature of the food itself as well as the air temperature within the vessel (column 4, lines 11-16). Although not specifically recited, it would have been obvious to one of ordinary skill in the art that the temperature probe of Bauer would be hollow since thermometers were commonly made with hollow tubular bodies in order to hold a temperature sensitive material such as mercury, a spring, or a thermocouple.

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Allowable Subject Matter

7. Claims 2-6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
8. Claims 8-19 are allowed.
9. The following is an examiner's statement of reasons for allowance: the cooking devices of independent claims 2, 8, and 15 define over the prior art of record by comprising a removable lid, a knob assembly including a whistle, and a movable member with a dual function notch which enables removal of the movable member and acts as a slot to enable a whistle because the prior art of record does not teach or suggest a movable member with a dual function notch which enables removal of the movable member and acts as a slot to enable the whistle.
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ames [Pat. No. 2,099,788] teaches a cooking device comprising a lid handle with a thermometer.

Response to Arguments

11. Applicant's arguments filed May 22, 2001 have been fully considered but they are not persuasive.

Applicant also argues that the thermometer of Bauer would pop off due to built up pressure, while also adding a limitation that the thermometer be removable by simply lifting it out. It is not clear how this can be accomplished without some sort of structural

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limitation which would prevent applicant's thermometer from popping out of the aperture as well.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew Becker
June 25, 2001


KEITH HENDRICKS
PRIMARY EXAMINER